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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/724,160

12/01/2003

Julian L. Henley

3589-54

9392

23117

7590

05/03/2005

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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/724,160	Applicant(s) HENLEY ET AL.	
	Examiner Camtu T. Nguyen	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 45-72 is/are pending in the application.
- 4a) Of the above claim(s) 66-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-65, 71 and 72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 45-65, in the reply filed on January 31, 2005 is acknowledged. Claims 71 and 72 are newly added claims and these claims depend from method claim 60 which are also directed to the elected Group I.

Claims 66-70 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to the nonelected group.

Claim Objections

Claim 45 is objected to because currently the limitations "a first electrode" and "a ground electrode" are not consistent with the specification. Accordingly, the specification on page 55, paragraph [0099] discloses the patch applicator (300) includes an active electrode (302) and a counter electrode (304). There is no place in the specification does it disclose an applicator having a touch-sensitive switch includes a first electrode and a ground electrode, as recited in claim 45.

Appropriate correction is required.

Claim 45 is rejected as best can be understood and interpreted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45-48, 50-59-72 are rejected under 35 U.S.C. 102(b) as being anticipated by McNichols et al (U.S. Patent No. 5,697,896). McNichols et al discloses in Figures 3 and 4 an electrotransport delivery device (410) comprising a circuit board (141), the ASIC (150), a battery mounted on the circuit board (141), electrodes (143, 144), a pushbutton switch (18), a LED (120), gel pads (145, 146), adhesive layer (148). Figure 4 illustrates the device (410) further comprising reservoirs (416, 418). The McNichols et al device is capable of carrying the steps recited in the method claims (see entire document).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNichols et al (U.S. Patent No. 5,697,896) in view of Lattin et al (U.S. Patent No. 4,406,658). McNichols et al discloses in Figures 3 and 4 an electrotransport delivery device (410) comprising recited in these claims but does not teach a vibrator. Lattin et al discloses in Figures 1-6 an iontophoresis device comprising a control circuit (60). Figure 6 illustrates the control circuit (60) having a vibrator (60D). Therefore it would have been obvious to one of ordinary skill in the art to modify the

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McNichols et al device to include a vibrator as suggested by Lattin et al for the purposes of indicating the device's activation.

Conclusion

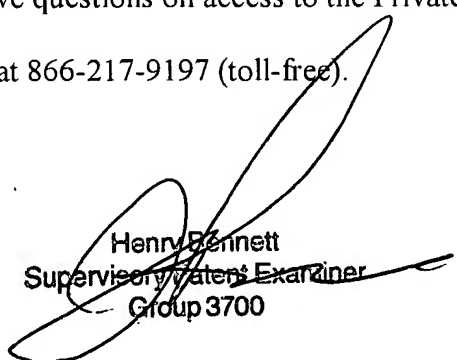
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen
April 13, 2005


Henry A. Bennett
Supervisory Patent Examiner
Group 3700